

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Claims 1, 2 and 4-6 are now pending, wherein claim 2 is amended and claim 3 is canceled.

In paragraphs 3 and 4 of the Office Action claims 1-4 are rejected under 35 U.S.C. § 112, second paragraph for indefiniteness. This ground of rejection is respectfully traversed.

The Office Action states that claims 1 and 2 are in narrative form, and replete with functional language. However, M.P.E.P. § 2173.05(g), citing *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971), states that

[t]here is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper.

Accordingly, merely reciting functional language does not render claims 1 and 2 indefinite.

The Office Action also states that the structure of the device must be positively recited and organized in a manner to present a complete operative device. Claims 1 and 2, however, positively recite a channel selection device that comprises a receiver, a digital/analog decoder, a memory, a control unit and an input device, and the interrelation of these elements. Accordingly, it is

respectfully submitted that claims 1 and 2 each positively recite a channel selection device in a manner that presents a complete operative device.

The Office Action further states that the claims should be in one sentence form only. Claims 1 and 2 each include only a single period, and therefore, are in the form of a single sentence.

With regard to claim 1, the Office Action further states that this claim is indefinite as having been written in alternative form. However, M.P.E.P. § 2173.05(h), citing *Ex parte Markush*, 1925 C.D. 126 (Comm'r Pat. 1925), states that “[a]lternative expressions are permitted if they present no uncertainty or ambiguity with respect to the question of scope or clarity of the claims.” It is respectfully submitted that there is no uncertainty or ambiguity to the alternative recitations in claim 1. Specifically, claim 1 recites that the control unit “tries to select the channel ... when the unit could find channel information ... in the memory.” Claim 1 also recites that the control unit “shifts a frequency to search for the physical channel when the unit could not find the channel information of the desired channel in the memory.” It is respectfully submitted that these claim elements are clear and present no uncertainty or ambiguity. Accordingly, the indefiniteness rejection based merely on the use of alternative language should be withdrawn.

For at least the forgoing reasons it is respectfully requested that the rejection of claims 1-4 as being indefinite be withdrawn.

In paragraphs 5 and 6 of the Office Action claim 5 is rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,775,843 to McDermott ("McDermott"). This ground of rejection is respectfully traversed.

McDermott does not anticipate claim 5 because McDermott does not disclose "selecting a predetermined sub-channel in a same channel as a desired channel or a predetermined sub-channel in a same physical channel as the desired channel when the channel corresponding to the channel changing instruction is not stored in the memory."

McDermott discloses a method and apparatus for digital TV channel mapping. When a user selects a virtual channel that is not in the virtual channel table (VCT) ("No" path out of decision step 626), then tuning is stopped and a message is displayed on the screen (step 630). *See Fig. 6 of McDermott.* Accordingly, McDermott does not disclose that "when the channel corresponding to the channel changing instruction is not stored in the memory", a predetermined sub-channel in a same channel as a desired channel is selected or a predetermined sub-channel in a same physical channel as the desired channel is selected.

The Office Action cites column 6, lines 21-61 of McDermott to reject the selecting act of Applicants' claim 5. However, this section of McDermott discloses that if the virtual channel selected by the user is not in the VCT then the module "stops tuning and displays a message such as 'SERVICE

UNAVAILABLE' on the monitor 120." *Col. 6, lines 36-38*. Accordingly, there is nothing in this section disclosing "selecting a predetermined sub-channel in a same channel as a desired channel or a predetermined sub-channel in a same physical channel as the desired channel when the channel corresponding to the channel changing instruction is not stored in the memory" as recited in Applicants' claim 5.

Because McDermott does not disclose all of the elements of Applicants' claim 5, McDermott cannot anticipate this claim.

For at least the forgoing reasons it is respectfully requested that the rejection of claim 5 as being anticipated by McDermott be withdrawn.

In paragraphs 7 and 8 of the Office Action claims 1-4 are rejected under 35 U.S.C. § 103(a) as being obvious in view of the combination of McDermott and U.S. Patent No. 6,707,508 to Mears et al. ("Mears"). This ground of rejection is respectfully traversed.

The combination of McDermott and Mears does not render claim 1 obvious because the combination does not disclose or suggest a control unit that "when it could not find the desired channel and failed in the channel selection, obtains the latest VCT to thereby select such a channel in the VCT that has the smallest sub-channel number in the same main channel as the desired channel

or such a channel that has the smallest sub-channel number in the same physical channel as the desired channel”, as recited in Applicants’ claim 1.

As discussed above, McDermott discloses that if the virtual channel selected by the user is not in the VCT then the module “stops tuning and displays a message such as ‘SERVICE UNAVAILABLE’ on the monitor 120.” *Col. 6, lines 36-38*. Therefore, McDermott does not disclose obtaining the latest VCT or the selection of the sub-channel in the manner recited in claim 1 when the control unit could not find the desired channel.

To reject Applicants’ claim 1 the Office Action relies upon step 638 in which a failure “to tune to the virtual channel in a first iteration of the loop of fig. 6” occurs. However, if a virtual channel is not in the VCT, this loop is never entered the decision at step 626 results in the display of the “SERVICE UNAVAILABLE” message. Accordingly, McDermott does not disclose or suggest that when the control unit could not find the desired channel in the memory that the control unit obtains the latest VCT.

The Office Action relies upon Mears for the disclosure of selection of the smallest sub-cannel number in the same main channel as the desired channel. Mears discloses that when a user enters a main channel number without a subchannel number that the subchannel number is automatically entered as “0” and the unit will attempt to tune to this channel. However, Mears, like McDermott, does not disclose or suggest that when the control unit could not find

the desired channel in the memory that the control unit obtains the latest VCT and selects a sub-channel in the manner recited in claim 1.

Because McDermott and Mears each do not disclose or suggest that when the control unit could not find the desired channel in the memory that the control unit obtains the latest VCT and selects a sub-channel in the manner recited in claim 1, the combination cannot render claim 1 obvious.

Claim 2 recites similar elements to those discussed above with regard to claim 1. Accordingly, claim 2 is non-obvious in view of the combination of McDermott and Mears for similar reasons to those discussed above with regard to claim 1. Claim 4 is non-obvious in view of the combination of McDermott and Mears at least by virtue of its dependency from claim 2.

For at least the forgoing reasons it is respectfully requested that the rejection of claims 1-4 as being obvious in view of the combination of McDermott and Mears be withdrawn.

In paragraph 9 of the Office Action claim 6 is rejected under 35 U.S.C. § 103(a) as being obvious in view of the combination of McDermott and U.S. Patent No. 6,483,547 to Eyer ("Eyer"). This ground of rejection is respectfully traversed.

Claim 6 depends from claim 5. Eyer, however, does not remedy the above-identified deficiencies of McDermott with respect to claim 5. Accordingly,

the combination of McDermott and Eyer cannot render claim 5 or 6 unpatentable.

For at least the forgoing reasons it is respectfully requested that the rejection of claim 6 as being obvious in view of the combination of McDermott and Eyer be withdrawn.

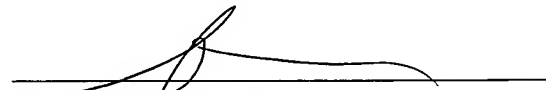
All outstanding objections and rejections having been addressed it is respectfully submitted that the present application is in condition for allowance. Notice to this effect is earnestly solicited. If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

Serial No. 10/059,031
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Reply to Office Action Mailed: October 3, 2006
Attorney Docket No. 010482.50891US

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #010482.50891).

Respectfully submitted,

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